

REMARKS

The Office Action of December 7, 2009 has been received and carefully considered. However, Applicant respectfully disagrees with Examiner on the rejection of pending claims under 35 U.S.C. §103. All claims are now present for examination and favorable reconsideration is respectfully requested in view of the previous amendments and the following comments.

REJECTIONS UNDER 35 U.S.C. § 103:

Claims 3 and 7 – 8 have been rejected under 35 U.S.C. § 103 as allegedly being unpatentable over Kurano (JP 2002-050364) in view of Maruyama et al. (US 6,510,435) and Kuroki (US Pat Pub. No. 2003/0104262).

Applicant traverses the rejection and respectfully submits that the embodiments of present-claimed invention are not obvious over cited references. The present invention as defined in Claim 3 has the structure that notches or through-holes are formed in the area where the gasket is formed on the plate, and concave portions are formed on the separator at the locations corresponding to the notches or the through-holes, thereby a portion for fixing the plate to the separator is formed on the gasket.

It is respectfully submitted that Maruyama discloses a structure that, in the electrolytic membrane 4, the gaskets 7, 31 and 32 are integrally formed with the portion 4a extended from the peripheral edges of the oxidant pole 5 and the fuel pole 6.

In addition, the structure disclosed in Fig. 7 of Kuroki is such that two gaskets are provided, one on each of the front and rear surfaces, and the two gaskets are integrally formed by through-hole provided on the separator 2. Further, regarding Fig. 7 of Kuroki, the Examiner alleges that “Kuroki discloses the plate member comprising a through hole.” Applicant respectfully submits that this allegation is incorrect. In Kuroki, what is provided with the through-hole 2b is the separator 2, NOT the plate member.

Thus, the structures disclosed in the cited references are quite different from that of the present invention. Because a prima facie case of obviousness has not been established, Examiner's rejection based on cited references constitutes a jump in logic and impermissible hindsight.

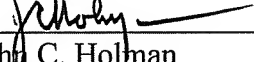
Therefore, the newly presented claims are not obvious over cited references and the rejection under 35 U.S.C. § 103 has been overcome. Accordingly, withdrawal of the rejections under 35 U.S.C. § 103 is respectfully requested.

Having overcome all outstanding grounds of rejection, the application is now in condition for allowance, and prompt action toward that end is respectfully solicited.

Respectfully submitted,

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